

**Notice of Allowability**

Application No.

10/022,109

Examiner

Michael I Poe

Applicant(s)

BECK ET AL.

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment and terminal disclaimers filed on May 5, 2004.
2. ☒ The allowed claim(s) is/are 1-9 and 12-22.
3. ☒ The drawings filed on 13 December 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 20040610.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### EXAMINER'S AMENDMENT

#### *Authorization*

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with applicant's attorney Scott Daniels on June 11, 2004.

#### *Amendments*

2. The application has been amended as follows:

The title has been changed to:

-- A METHOD FOR FORMING A NON-DELAMINATING MULTILAYER CONTAINER MOUTH --.

Claim 1 has been amended as follows:

Line 3, -- the multiple layers comprising a first layer and at least one second layer attached to the first layer, -- has been inserted after "layers,";

Line 4, "," has been deleted after "opening" and -- and -- has been inserted after "opening"; and

Line 7, "and" has been deleted after "exposed;".

Claim 6 has been amended as follows:

Lines 1 & 2, "multiple layer" has been deleted after "wherein the" and -- first layer and the at least one second layer -- has been inserted after "wherein the".

Claim 13 has been amended as follows:

Line 4, -- the -- has been inserted before "multiple".

Claim 18 has been amended as follows:

Line 1, "sandwich" has been deleted after "layer is" and -- sandwiched -- has been inserted after "layer is"; and

Line 2, "inner" has been deleted before "plastic" (second occurrence) and -- outer -- has been inserted before "plastic" (second occurrence).

***Examiner's Statement(s) of Reasons for Allowance***

3. The following is an examiner's statement of reasons for allowance:

- (1) The prior art of record does not teach or suggest a method of preventing delamination of multiple layers of a polymer container having an opening defined by the multiple layers wherein the multiple layers of the container comprise a first layer and at least one second layer attached to the first layer, as a whole, especially including the combination of the steps of trimming a waste portion of a perimeter of an intermediate article to form a polymer container having a perimeter at which the multiple layers are at least partially exposed; heating the perimeter until the perimeter is workable or sufficiently softened; and curling the workable or softened perimeter sufficiently without delamination (e.g., maintaining the multiple layers intact) to impart resistance to delamination of the multiple layers from one another to the perimeter (e.g., inhibiting delamination).
- (2) Although it is known in the art to prevent delamination of multiple layers of a container having at least one plastic layer (e.g., a first layer) and a barrier layer (at least one second layer) attached thereto by curling a trimmed edge of the container together with an associated lid or an additional container to provide an interlock between the container and the lid or additional container (see, for example, column 6, 2<sup>nd</sup> paragraph of U.S. Patent No. 3,977,153 to Schrenk), there is no teaching or suggestion in the prior art that delamination of multiple layers of a container could be prevented without the attachment of a separate lid or a separate additional container as taught in the applicant's invention. Based upon the prior art of record, the attachment of the lid appears to be essential to the prevention of delamination of the multiple layers of the container contrary to the applicant's invention, and therefore the prior art teaches away from the applicant's invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 1732

**Conclusion**

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael I Poe whose telephone number is (571) 272-1207. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Michael Poe/mip

  
**MICHAEL P. COLAIANNI**  
**SUPERVISORY PATENT EXAMINER**